

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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MICHAEL COHEN,

Plaintiff,

v.

1:11-CV-1200  
(MAD/TWD)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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APPEARANCES:

OF COUNSEL:

OFFICE OF PETER M. MARGOLIUS  
*Counsel for Plaintiff*  
7 Howard Street  
Catskill, NY 12414

PETER M. MARGOLIUS, ESQ.

THÉRÈSE WILEY DANCKS, United States Magistrate Judge

**REPORT-RECOMMENDATION**

On October 6, 2011, Plaintiff filed a complaint against the Commissioner of Social Security pursuant to 42 U.S.C. § 405(g). (Dkt. No. 1.) Plaintiff applied to proceed *in forma pauperis*. (Dkt. No. 2.) On November 21, 2011, the Court denied Plaintiff's *in forma pauperis* application because Plaintiff reported having \$25,000 in a checking account. (Dkt. No. 4.) The Court noted that Plaintiff could file a renewed application with any additional information regarding his resources that he would like the Court to consider. *Id.* Plaintiff was directed to pay the \$350.00 filing fee or submit a new *in forma pauperis* application by December 21, 2011. *Id.* Plaintiff was advised that failure to comply with the Court's order may result in the dismissal of the action. *Id.*

Plaintiff did not pay the filing fee or submit a new application. On February 1, 2012, the Court issued a text order directing Plaintiff's attorney to inform the Court whether Plaintiff required

an extension of time to February 21, 2012, to pay the filing fee or file a renewed application. On February 8, 2012, Plaintiff's attorney advised the Court that he did not intend to request an extension. (Dkt. No. 5.)

Plaintiff's time to pay the filing fee for this action or submit a renewed application for *in forma pauperis* status expired on December 21, 2011. Plaintiff has not filed a new application or paid the filing fee. His attorney has indicated that Plaintiff does not request any extension of time in which to comply with the Court's order. Therefore, it is recommended that the Court dismiss this action. *See Chambers v. NASCO, Inc.*, 501 U.S. 32, 49 (1991) (the authority of the court to dismiss *sua sponte* for lack of prosecution has generally been considered an inherent power).

Accordingly, it is


**RECOMMENDED** that this action be dismissed for failure to pay the filing fee.

Pursuant to 28 U.S.C. § 636(b)(1), the parties have fourteen days within which to file written objections to the foregoing report. Such objections shall be filed with the Clerk of the Court.

**FAILURE TO OBJECT TO THIS REPORT WITHIN FOURTEEN DAYS WILL**

**PRECLUDE APPELLATE REVIEW.** *Roldan v. Racette*, 984 F.2d 85 (2d Cir. 1993) (citing *Small v. Secretary of Health and Human Services*, 892 F.2d 15 (2d Cir. 1989)); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72.

Dated: February 22, 2012  
Syracuse, New York

  
Therèse Wiley Dancks  
United States Magistrate Judge